

Message Text

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ACTION AF-10

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FM AMEMBASSY LUSAKA
TO SECSTATE WASHDC 5551
INFO AMEMBASSY LONDON

C O N F I D E N T I A L LUSAKA 1182

E.O. 11652: GDS
TAGS PFOR ETRD RH ZA
SUBJ: GRZ TO SUE OIL COMPANIES

REF: LONDON 3787 AND A-183

1. GRZ HAS INSTRUCTED ATTORNEY GENERAL MAINZA CHONA "TO TAKE LEGAL ACTION AGAINST THE OIL COMPANIES WHICH HAVE BEEN INVOLVED IN SUPPLYING OIL TO THE ILLEGAL REGIME IN RHODESIA."
THE ANNOUNCEMENT STATED THAT THE ATTORNEY GENERAL HAS ALREADY HAD SOME PRELIMINARY CONSULTATIONS ON THE MATTER AND IS UNDERSTOOD NOW TO BE PURSUING IT VIGOROUSLY.

2. EMBASSY UNDERSTANDING WAS THAT GRZ PLANNING TWO SEPARATE LEGAL ACTIONS. THE FIRST WOULD BE A SUIT AGAINST TWO OIL COMPANIES, MOBIL AND SHELL/BP ALLEGING BREACH OF CONTRACT. THE BASIS OF THE SUIT WOULD BE THAT THE OIL COMPANIES FAILED TO SUPPLY CONTRACTED AMOUNTS OF PRODUCT TO ZAMBIA IMMEDIATELY PRIOR TO AND AFTER UDI IN RHODESIA. THE ZAMBIAN BOUND PRODUCT WAS DIVERTED TO RHODESIA INSTEAD AND STOCKPILED. THIS ACTION WOULD BE FOLLOWED BY A CONSPIRACY SUIT AGAINST THE OIL COMPANIES CHARGING THAT THEY VIOLATED RHODESIAN OIL SANCTIONS AND THEREBY PROLONGED THE LIFE OF AN ILLEGAL REGIME. THIS "CONSPIRACY" CAUSED SEVER ECONOMIC HARDSHIPS AND LOSS OF ZAMBIAN LIVES AND ZAMBIA WOULD SUE FOR DAMAGES AS AGGRIEVED
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PARTY AND VICTIM OF THIS CONSPIRACY.

3. THE PRESS REPORT ON WHICH PARA 1 IS BASED MENTIONS 4 OIL COMPANIES AND GIVES THE IMPRESSION THEY ARE REFERRING TO THE CONSPIRACY ACTION WHICH WE HAD UNDERSTOOD TO BE THE SECOND STEP. HOWEVER, THE LOCAL PRESS IS NOTORIOUS FOR INACCURATE REPORTING AND THUS IT IS DIFFICULT TO SAY WHICH SUIT MAINZA

HAS BEEN INSTRUCTED TO PRESS.

4. THE BREACH OF CONTRACT SUIT WOULD BE BASED ON THE CONTENTION THAT THERE WAS NO "FORCE MAJEUR" CLAUSE IN THE DELIVERY CONTRACT WITH ZAMBIA AND THEREFORE A LEGITIMATE BASIS FOR A CIVIL SUIT EXISTS. MOBIL OIL HAS TOLD THE EMBASSY THAT IT DOUBTS A WRITTEN CONTRACT EVER EXISTED; THAT ONE WITHOUT SOME "FORCE MAJEUR" PROVISION IS HIGHLY UNLIKELY, AND EVEN IF IT WAS LEFT OUT ITS INCLUSION WAS NOT THAT IMPORTANT IF CONDITIONS BEYOND CONTROL IN FACT EXISTED. THEY RECOGNIZE HOWEVER, THE BASIS AND REASONS FOR ZAMBIA TO PURSUE SUCH AN ACTION. THE CIVIL SUIT CAN BE FILED AND ADJUTICATION STRETCHED OUT OVER AN EXTENDED PERIOD OF TIME PROVIDING A PUBLIC FORUM FOR ZAMBIA TO DISPLAY EMBARRASSING EVIDENCE AND KEEP THE ISSUE OF SANCTIONS VIOLATIONS IN THE PUBLIC EYE. THE SUIT WOULD UNDOUBTEDLY PUT PRESSURE ON THE OIL COMPANIES WITH RESPECT TO THEIR OPERATIONS IN RHODESIA AND THE PROPAGANDA VALUE WOULD BE SIGNIFICANT. WHILE SPECULATING THAT THE SUIT WOULD HAVE LITTLE CHANCE OF SUCCESS AND THAT ZAMBIA IS PROBABLY AWARE OF THIS, THEY RECOGNIZE THAT ZAMBIA MAY PROCEED ANYWAY.

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Message Attributes

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Disposition Approved on Date:
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Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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